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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/530,703	06/21/2000	SHUICHI NAGATO	2000_0574A	3448

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EXAMINER

DOROSHENK, ALEXA A

ART UNIT	PAPER NUMBER
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1764

DATE MAILED: 06/06/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/530,703

Applicant(s)

NAGATO ET AL.

Examiner

Alexa A. Doroshenk

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 24 May 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 108-128 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 108-128 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 5-24-05.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 108-128 are rejected under 35 U.S.C. 102(b) as being anticipated by Ganster et al. (4,917,028).

With respect to claims 108, 112, 116 and 120, Ganster et al. discloses a gasification and combustion apparatus comprising:

- a pyrolysis/gasification area (4) with a bottom/lower part;
- a combustion area (5) with a bottom/lower part;
- a partition wall (3) dividing the gasification area (4) from the adjacent combustion area (5);
- a first diffusion device (6) on the bottom of the gasification area (4);
- a second diffusion device (6') on the bottom of the combustion area (5);
- a material discharging port (col. 8, lines 10-18) between the bottom of the gasification area (6) and the bottom of the combustion area (6'); and
- a lower opening in the wall (3) (see figure 1).

The velocity of the various fluidizing regions and the path of particles within the combustion or pyrolysis area are the result of operational conditions during use of the device and not structural limitations. It is noted that the claims are apparatus claims

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and an apparatus claim covers what a device is, not what a device does. MPEP 2114.

The manner of operation or use of a known device is not a patentable distinction over the known apparatus, therefor the instant claims read directly on the apparatus of Ganster et al.

With respect to claims 109-11, 113-115, 117-119 and 121-123, Ganster et al. further discloses wherein the gasification area (4) further includes a third diffusion device (11) at the bottom thereof.

The velocity at which a gas is ejected from the diffusion device is an operational condition and not a structural limitation. It is noted that the claims are apparatus claims and an apparatus claim covers what a device is, not what a device does. MPEP 2114. The manner of operation or use of a known device is not a patentable distinction over the known apparatus, therefor the instant claims read directly on the apparatus of Ganster et al.

With respect to claim 124, Ganster et al. discloses a gasification and combustion apparatus comprising:

- a pyrolysis/gasification area (4) with a bottom/lower part;
- a combustion area (5) with a bottom/lower part;
- a partition wall (3) dividing the gasification area (4) from the adjacent combustion area (5);
- a first diffusion device (6) on the bottom of the gasification area (4);
- a second diffusion device (6') on the bottom of the combustion area (5);
- a material supply port (13) in the gasification area (4);

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a material discharging port (col. 8, lines 10-18) between the bottom of the gasification area (6) and the bottom of the combustion area (6'); and

a lower opening in the wall (3) (see figure 1).

The velocity of the various fluidizing regions and the path of particles within the combustion or pyrolysis area are the result of operational conditions during use of the device and not structural limitations. It is noted that the claims are apparatus claims and an apparatus claim covers what a device is, not what a device does. MPEP 2114. The manner of operation or use of a known device is not a patentable distinction over the known apparatus, therefor the instant claims read directly on the apparatus of Ganster et al.

With respect to claim 125, Ganster et al. further discloses wherein the device is operable to pyrolyze and gasify material including combustible and incombustible (see abstract).

With respect to claim 126, Ganster et al. further discloses wherein the furnace bottom of the combustion area (5) includes a surface (6') which is downwardly inclined toward the material discharge port (see figure 1).

With respect to claim 127, Ganster et al. further discloses wherein the furnace bottom of the gasification area (4) includes a surface (6) which is downwardly inclined toward the material discharge port (see figure 1).

With respect to claim 128, it can be seen in figure 1 of Ganster et al. that the combustion (5) and gasification (4) areas are shaped and arranged for an internally revolving flow.

Conclusion

3. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alexa A. Doroshenk whose telephone number is 571-272-1446. The examiner can normally be reached on Monday - Thursday from 9:00 AM - 7:30 PM.


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Glenn Caldarola can be reached on 571-272-1444. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Alexa A. Doroshenk
Examiner
Art Unit 1764

June 1, 2005


ALEXA DOROSHENK
PRIMARY EXAMINER